

ORIGINAL

IN THE

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FILED
HARRISBURG

JUL 11 2001

MARY E. D'ANDREA
Per ME
Deputy Clerk

WILLIAM DONALD MARSHALL,
PETITIONER,

Civil # 1:CV-01-0949

VS,

of Raimb
PETITIONER'S
REPLY TO
RESPONDENT'S
ANSWER

ROBERT L RAIGER,
Respondent

COMES NOW PETITIONER AND who now RE-
plies to RESPONDENT'S ANSWER to this HONOR-
ABLE COURT'S ORDER OF JUNE 5, 2001 to show
CAUSE why PETITIONER'S PETITION FOR WRIT OF
HABEAS CORPUS should NOT BE GRANTED.

CONTRARY TO RESPONDENT'S CLAIM THAT PETITIONER
RIGHTS HAVE NOT BEEN VIOLATED AS PETITIONER

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ASSERTS IN PARAGRAPH '2' OF his PETITION FOR WRIT OF HABEAS CORPUS, PETITIONER'S RIGHTS HAVE BEEN VIOLATED PURSUANT TO THE CONSTITUTION AND LAWS OF THE UNITED STATES, TO-WIT:

(a) PETITIONER UPON BEING ARRESTED ON MAY 8, 2001, WAS NOT TAKEN BEFORE A JUDGE OR JUSTICE AS REQUIRED PURSUANT TO 18 USC 3182 AS 400 AT 42 PA. CSA 9136 WHEREAS 'DISTRICT JUSTICES' AS PETITIONER WAS BROUGHT BEFORE ARE NOT JUDICIALLY QUALIFIED TO PROCESS OR MAKE DECISIONS ON EXTRA-DITION MATTERS. PETITIONER HAS BEEN INFORMED BY HIS STATE APPOINTED public defender SCOTT STEIN who MADE INITIAL APPEARANCE IN PETITIONER'S CASE LONG AFTER VIOLATION OF PETITIONER RIGHT TO

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A HEARING AFTER EXPIRATION OF 30 DAY DETENTION,
AND WHERE PETITIONER'S OWN RESEARCH REVEALED
THAT 'DISTRICT JUSTICES' AS UTILIZED IN STATE OF
PENNSYLVANIA TO CONDUCT ARRAIGNMENTS AND OTHER
SUBSEQUENT HEARINGS ON EXTRADITION CASES, do
NOT POSSESS ANY LEGAL EDUCATION WHATSOEVER
AND ARE CONSEQUENTLY LAY PERSONS AT LAW, YET
WHOSE DECISIONS HAVE ADVERSE EFFECTS UPON
THE LIFE, LIBERTY AND PROPERTY OF THOSE BROUGHT
BEFORE THEM. ON EACH OF TWO OCCASSIONS THAT
PETITIONER WAS BROUGHT BEFORE TWO DIFFERENT
'DISTRICT JUSTICES' AND WHERE COUNSEL ON WITHA
APPEARANCE WAS DENIED AND SECOND APPEARANCE
WAS SWIFTLY COMPLETED BEFORE COUNSEL WITHOUT
ADVANCE NOTICE COULD NOT ARRIVE TIMELY ALTHOUGH

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he objected by phone for arraignment to proceed out of his presence, petitioner contends that his rights have twice been violated as described above and where the latter arraignment followed an illegal 'rearrest' prior to being released on same charge by Order of the Honorable Robert J Eby, in Lebanon County Court of Common Pleas, granting petition for writ of Habeas Corpus for respondent's failure to bring petitioner before a judge and court of record within 30 days of arrest as required by law under the Uniform Criminal Extradition Act. Petitioner contend that contrary to respondent's denying that which petitioner assents in as paragraph 3 of his petition for writ of Habeas Corpus, petitioner has never been given any information or copies of

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VIRGINIA CHARGES THAT WOULD SUPPORT THE ONLY DOCUMENT PROVIDED PETITIONER, I.E. PA. FUGITIVE WARRANT. IT WAS NOT UNTILL PETITIONER WAS SHOWN BY ANOTHER WIMATE THAT BY ARTICLE APPEARING IN LEBANON DAILY NEWS (SEE PETITIONER'S EXHIBIT 'A') THAT PETITIONER WAS FIRST INFORMED THAT THE SOLE BASIS OF THE VA. CHARGES HINGED ON HIS ALLEGED FAILURE TO PAY HIS BILLS DISPITE RESPONDENT'S RESENT CONTENTION TO IMPLY OTHERWISE IN HIS EXHIBIT ATTACHMENT TO AN UNAUTHORIZED 'SECOND ANSWER' TO PETITIONER'S CLAIMS, AS REFERENCING AFFIDAVIT OF GARY AGAR IN SUPPORT OF ACQUIRING A GOVERNOR'S WARRANT WHEREIN SAID AFFIDAVIT AT PARAGRAPH '7' IT IS ALLEGED THAT EXTRADITION IS NOT SOUGHT TO COLLECT A DEBT. PETITIONER CONTENTS THAT RESPONDENT IS ATTEMPTING TO EXTRADITE FOR FAILURE OF PETITIONER TO ALLEGEDLY PAY HIS BILLS AS IS EVIDENT

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by the information provided to newspaper reporter from Trooper Morris of VA. State Police which too contradicts Trooper Morris affidavit attached to Respondent's Second Answer utilized to acquire a Governor's Warrant. See Petitioner's Exhibit 'A'.

Petition contends that despite efforts of Respondent, to contend that extradition is ^{NOT} for purpose of collecting for or retaliation for failing to pay a debt, the evidence strongly implies to the contrary. See:

Walker v. Ramsey, 368 N.W. 2d 25
Stynchcombe v. Smith 261 NE 2d 342
King v. Schmucke, 323 N.W. 2d 66 (1982).

Therefore, Petitioner contends that since extradition is sought for purposes of satisfying in some form a civil debt, extradition should be denied.

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PETITIONER CONTENDS, THAT CONTRARY TO RESPONDENT'S DENIAL OF PETITIONER'S CLAIMS IN PARAGRAPH '4' OF HIS PETITION FOR WRIT OF HABEAS CORPUS, PETITIONER MAINTAINS his claims (a) through (e) to-wit:

- (a) PETITIONER'S VEHICLE WAS TOWED TO A SECURED AREA UNDER SUPERVISION OF POLICE THEN WITHOUT SEARCH WARRANT CONDUCTED SEARCH OUT OF PRESENCE OF PETITIONER, IN VIOLATION OF FOURTH AMENDMENT AND FOURTEENTH AMENDMENT TO U.S. CONSTITUTION.
- (b) PETITIONER CONTENDS AND MAINTAINS his claims AS ORIGINALLY SET FORTH IN his petition, THAT PETITIONER WAS DEIVED his Sixth AMENDMENT RIGHT TO COUNSEL UPON INITIAL APPEARANCE BEFORE DISTRICT JUSTICE ON MAY 8, 2001 WHERE PETITIONER WAS INSTRUCTED WHERE TO SIGN his NAME ON COURT FORM THAT PETITIONER ASSENTED HE COULD NOT SEE DUE TO LEGAL BLINDNESS AND WITHOUT SPECIAL DEVICE AS PETITIONER NOW USES IN PREPARATION OF this pleading. THE DISTRICT JUSTICE HAD PETITIONER SIGN A 'WAIVER' OF COUNSEL WHICH WAS NEITHER VOLUNTARY OR TOLD TO PETITIONER. SEE ATTACHED AFFIDAVIT OF PETITIONER'S FAMILY MEMBERS WHICH CONFIRMS PETITIONER SEVERE VISUAL HANDICAP AS ONE CONDITION OF 'ALBINISM'. 'EXHIBIT 'B'

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(c) PETITIONER OPPOSES RESPONDENT'S CONTENTION THAT A CLAIM OF DENIAL OF ACCESS TO AN ADEQUATE LAW LIBRARY IS IRRELLEVANT IN THIS CASE. CONTRARY, PURSUANT TO PRESIER V. RODRIQUEZ, 93 S. G. 1827; 411 U.S. 475; WALTERS V. HENDERSON, 352 F Supp 556.

(d) PETITIONER OPPOSES RESPONDENT'S CONTENTION THAT A CLAIM OF DENIAL OF ~~ACCESS~~ RIGHT TO FAIR BAIL IS IRRELLEVANT IS MISPLACED. PETITIONER CONTENDS HE HAS A CONSTITUTIONAL RIGHT TO BAIL THAT IS NOT EXCESSIVE. ALTHOUGH SUCH MAY BE QUESTIONABLE NOW SUBSEQUENT TO EVENTS OCCURRING SINCE JUNE 27, 2001, PETITIONER HAS AND IS NOW EXERCISING HIS RIGHT TO MOTION THIS COURT FOR BAIL PURSUANT TO RULE 23(b)(c).

(e) CONTRARY TO RESPONDENT'S CLAIM THAT ITEM (e) IS IRRELLEVANT, SUCH IS INDEED ONE OF THE MAJOR FACTOR IN THIS CASE. PETITIONER PURSUES HIS CLAIM THAT HE WAS NOT IN THE DEMANDING STATE AT TIME OF ALLEGED CRIME AS REQUIRED TO MAKE FINDING THAT HE IS A FUGITIVE. AT TIME OF BEING REQUIRED TO FILE THIS REPLY ALTHOUGH PETITIONER HAS DISCOVERED PROOF THAT WOULD ESTABLISH HE IS NOT A FUGITIVE, PETITIONER NEEDS EITHER MORE TIME TO ACQUIRE THE EVIDENCE HIMSELF AS BEING AVAILABLE FROM MOTEL 6 IN VALDOSTA, GA. OR UNLESS

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THIS COURT WOULD ASSIST IN ACQUIRING SUCH RECORD AS MOTEL 6 ADMITS HOLDING.

UNDER PARAGRAPH '5' PETITIONER OPPOSES RESPONDENT'S DENIAL. INASMUCH AS PETITIONER WAS APPOINTED COUNSEL ON JUNE 12, 2001 SUCH WAS LONG AFTER PETITIONER WAS DENIED COUNSEL DURING PROCEEDING THAT DID AND DID NOT TIMELY OCCUR SUCH AS THE RIGHT DENIED PETITIONER TO BE BROUGHT BEFORE A JUDGE AFTER EXPIRATION OF 30 DAYS FROM DATE OF ARREST AND RIGHT TO COUNSEL NEITHER OF WHICH HAD OCCURRED AS MANDATORILY REQUIRED UNDER THE UNIFORM CRIMINAL EXTRADITION ACT. TO CIRCUMVENT SUCH VIOLATION RESPONDENT ON JUNE 20, 2001 CAUSED PETITIONER TO BE REARRESTED ON SAME CHARGES BEFORE PETITIONER WAS ORDERED RELEASE BY COURT OF COMMON PLEAS FOR VIOLATION OF 30 DAY STATUTE, THUS ALLOWING RESPONDENT TO ~~BE~~ NOT ONLY CIRCUMVENT THE STATUTE, BUT TO START ALL OVER AGAIN, AFFORDING NEW TIME FRAMES.

PETITIONER ASSERTS THAT RESPONDENT ACTING AS AGENT FOR STATE OF VIRGINIA AND ITS PROSECUTING AGENT GARY AGAR AND TROPPER R.A. MORRIS; OWNER OF JAYON HARDWARE AND RADIO SHACK, ALL OF ACCOMACK COUNTY HAVE INDIVIDUALLY AND TOGETHER AGREED TO VIOLATE

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PETITIONER'S RIGHTS TO THE EXTENTS THAT THREATS ON
 PETITIONER'S LIFE TO INCLUDE AMONG OTHER THREATS, THAT
 PETITIONER SHOULD BE HUNG. COMMONWEALTH EX REL
MATTOX VS. SUPERINTENDENT OF COUNTY PRISON, 31 A. 2d 576.

"Where judge granting habeas corpus is
 satisfied by substantial and competent
 evidence, that feelings against petitioner
 and attitudes of prosecuting attorney and peace
 officers of the demanding state is such as to
 furnish reasonable grounds for belief that
 petitioner will not receive a fair and impartial
 trial, and is in grave peril of being lynched or
 abused, judge may discharge petitioner from
 custody and refuse delivery of him to representa-
 tives of the demanding state.

PETITIONER FURTHER CONTENTS, THAT HE WILL TOO BE AND IS
 DENIED HIS SIXTH AMENDMENT RIGHT TO COUNSEL PRIOR TO
 ANY SUBSEQUENT DELIVERY TO STATE OF VIRGINIA SINCE
 DESPITE ALL EFFORTS BY PETITIONER AND HIS FAMILY, NO
 ATTORNEY IN ACCOMACK COUNTY VIRGINIA WILL BE RETAINED

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ACCEPT THE DEFENSE THUS DUE TO HIGH NEGATIVE ATTITUDES TOWARDS PETITIONER. WHILE REQUESTING THAT THIS COURT CONSIDER IN HAVING AGENTS OF RESPONDENT IN STATE OF VIRGINIA AND PENNSYLVANIA HELD ACCOUNTABLE FOR CRIMINALLY VIOLATING PETITIONER'S CONSTITUTIONAL RIGHTS PURSUANT TO 28 USC 241 and 242 PETITIONER PRAYS THIS COURT WILL INVOKE ITS JURISDICTION OVER RESPONDENT BY ISSUING AN ORDER PURSUANT TO 28 USC 2251 'STAYING' STATE COURT PROCEEDINGS UNTILL AN INVESTIGATION HAS BEEN COMPLETED TO DETERMINE IF ALL EXTRADITION LAWS HAVE BEEN ADHERED AS WELL AS TO INSURE PETITIONER'S SAFETY IF EXTRADITED TO VIRGINIA.

WHEREFORE, PETITIONER PRAYS THAT THIS HONORABLE COURT GRANT PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS

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by DISCHARGING him FROM CUSTODY AND THEREBY
DISMISSING THE VA. CHARGES WITH PREJUDICE, AND FOR
SUCH OTHER RELIEF THIS COURT DEEMS PROPER AND
JUST. PETITIONER FINALLY PRAYS, THAT SHOULD THIS COURT
DENY PETITIONER'S PETITION, THAT IN ORDER FOR PETITIONER
TO EXERCISE HIS RIGHT OF APPEAL, THAT THE PROVISIONS
CONTAINED IN PARAGRAPH '4' OF THIS COURT'S ORDER DATED
JUNE 5, 2001 AS PERTAINING TO ENFORCEMENT OF RULE
23(a) OF 28 USC FEDERAL RULES OF APPELLATE PROCEDURE,
BE RESTATED IN ITS FINAL ORDER TO PRESERVE AND PROTECT
PETITIONER'S RIGHT TO SEEK TIMELY APPELLATE REVIEW PRIOR
TO ANY POTENTIAL EXTRADITION TO VIRGINIA.

Dated this 7th day of
July, 2001.

RESPECTFULLY SUBMITTED,

William D Marshall